Supreme Court, U.S.
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No. 93-1604

IN THE
# Supreme Court of the United States
OCTOBER TERM, 1994

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CITY OF CLEARWATER, FLORIDA, *et al.*,
*Petitioners,*
v.
CHURCH OF SCIENTOLOGY FLAG SERVICE ORG., INC.,
*Respondent.*

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**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit**

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## REPLY BRIEF OF PETITIONERS

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1. In its opposition, Scientology claims it solicits only from its own members, and repeatedly casts the case as one involving solicitation of a church's own members, on its own premises, for general church purposes. Opp. pp. 2, 4, 14, 17, 23. In effect Scientology likens the matter, as it has throughout the litigation, to the proverbial passing of the hat in church. Relatedly, Scientology claims the case lacks importance because other statutes, its says, do not cover solicitation from a church's own members on its own premises.

Scientology, however, does not confine itself to seeking monies from its own members on its own premises. Rather, it extensively seeks money from the *public*. It does so by concededly selling books and tracts to the public, by extensive advertising typified by an expenditure of six million dollars for advertising in USA Today

alone and by extensive other print and electronic ads, and by trying to persuade persons not previously affiliated with Scientology to sign up for its expensive, claimed religious training, called "auditing," which consists of answering questions while hooked up to a form of lie detector.[1]

Furthermore, the Eleventh Circuit's decision is not limited to solicitation of an organization's own members on its own premises. To the contrary, the decision invalidates registration and disclosure laws dealing with solicitations from the *public*.

2. Scientology claims the case is interlocutory because the issue of impermissible motive was not determined with finality. In fact, the Eleventh Circuit has ruled almost all of the registration and disclosure provisions of the ordinance unconstitutional regardless of legislative motive. Only the legality of a few limited provisions, which the Circuit called "identifying" information, remains dependent on the issue of motive. The Circuit thus said that "with the exception of the *limited* prospective disclosure of identifying information, the *provisions of the 1984 ordinance requiring prospective and retrospective disclosure and record keeping concerning disclosure directed toward members and the public*" are illegal.[2] Petitioner's App. 71a (emphasis added).

3. As throughout this litigation, a significant portion of Scientology's effort to distinguish *International Society*

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[1] Though Scientology claims here that the case involves mere solicitation of members on an organization's own premises, it objected to an exemption for such solicitation and thereby caused it to be removed from the ordinance.

[2] Even with regard to the limited "identifying" information whose legality remains dependent on motive, the Circuit said that newspaper articles and television clips are "unrebutted" evidence of anti religious motive despite sworn denials of such animus in the deposition testimony of Clearwater officials. Thus the issue of motive very likely has been determined since, quite naturally, Clearwater's only evidence is the testimony of its officials.

*for Krishna Consciousness v. City of Houston*, 689 F.2d 541 (5th Cir. 1982), consists of claims that the Houston ordinance was constitutional because it lacked teeth. Government will lack governing power, and protection of the public will become a curiosity of history, if constitutionality exists only when paired with ineffectiveness.

Respectfully submitted,

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